

REMARKS

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested. Moreover, the Applicant has reviewed the Final Office Action of January 23, 2005, and submits that this paper is responsive to all points raised therein.

Status of the Claims

Claims 1-4, 6, 7, 9-17, 19-27, 29-34, and 49-53 are presently pending. Claims 1, 6, 7, 12, 16, 17, 22, 26, 27, 31-34, and 49-53 have been amended.

Rejections Under 35 USC 103(a)

Reconsideration is requested of the rejection of claims 1-4, 6, 7, 9-17, 19-27, 29-34, and 49-53 under §103(a) as being obvious in view of the combined teachings of Pallard (FR 2597910) (Pallard '910) and Wynings (U.S. Patent No. 6,585,451) (Wynings '451).

The subject matter of a claim is *prima facie* obvious in view of particular references if the Office can demonstrate that (1) the references, alone or together, describe every element of the claims, (2) there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine the references, and (3) there is some reasonable expectation of success.¹

Independent claim 1 has been amended to include some of the elements of dependent claim 6 as well as a pivotal handle. Amended claim 1 recites that the claimed apparatus includes lateral members, a cross bar, and a pivotal handle, which is connected to the cross bar by a pivotal joint. Claim 6, which depends from claim 1, has been amended to recite the number of holder mechanisms present in the apparatus. Independent claim 12 has been amended to include some of the elements of dependent claims 16 and 17. Specifically, amended claim 12 recites that the claimed apparatus includes oppositely disposed lateral members and a cross bar, intermediate the

lateral members. Amended claim 12 also specifies that the holder(s) of the apparatus includes a bar member that extends from an end of the cross bar. Claims 16 and 17, which depend from claim 12, have been amended to recite the number of holders present in the apparatus. Claim 22 has been amended to specify that the holder(s) of the apparatus includes a post that extends from an end of the receiver portion.

Each of the independent claims also recites that the apparatus includes a roller, a receiver portion for receiving the roller, and structures at the *oppositely disposed ends* of the receiver portion, i.e., retainers, holder mechanisms, or holders, which correspond to the *oppositely disposed ends* of the roller, for holding *separate*, adjustable sets of weights. Importantly, these separate, adjustable sets of weights allow the roller to be adjustably weighted *at its ends* in order to accommodate the various degrees of tightness encountered when working *wet concrete*.

The apparatus described in Pallard '910 includes a roller and a *unitary* member that receives the roller (receiver portion) and extends away from the roller to form a handle. Nowhere in the abstract or the figures of the Pallard reference is a joint, let alone a pivotal joint, disclosed for engaging the handle and attaching it to the receiver portion. The handle and the receiver portion of the Pallard apparatus form a *one-piece construction*, as exemplified in figure 2. Because the handle and the receiver portion form a unitary member, the handle of the Pallard device cannot move or pivot in relation to the receiver portion. This feature of the present invention allows the user to stamp in one direction, then easily pivot the handle, and stamp in the other direction. Pallard fails to teach or suggest a pivotable handle. Additionally, nowhere in abstract or figures of Pallard is it suggested to weight the described device in order to accommodate the various degrees of tightness that are encountered when working concrete. Thus, the Pallard reference does not teach a concrete-

¹ MPEP §2143.

stamping apparatus which includes a pivotal handle or structures for receiving weight, as required by the claims of the present application.

The Wynings reference, like the Pallard reference, is distinguishable from the apparatus of the present application. Wynings is directed to a hydraulically driven *lawn* roller comprising two, split rollers positioned side-by-side on the same axle and capable of rotating independently of one another, such that the lawn roller device can make zero radius turns. The zero radius turning feature of the Wynings device is significant in the field of lawn care, as it enables an operator to readily turn the heavy device without damaging the lawn. The Wynings apparatus includes *one* weight bar, which is in a parallel position to the length of both rollers. This weight bar is mounted above the rollers and parallel, but forward of the axle of the rollers. Weights can be removably mounted on the weight bar. Thus, quite significantly, weights are mounted horizontally along the length of the weight bar, up to the entire length of the weight bar. The weight bar has an upstanding flange, and individual weights have slots that fit the flange, so that the weights can be *secured* on the bar.

The Wynings references can be readily distinguished from the present invention, as defined by the claims. The Wynings reference does not contemplate applications to concrete at all. The Wynings patent is directed to an apparatus for rolling down soil (in preparation for laying down a new lawn) or rolling flat an existing lawn. As such, the rollers of the Wynings' apparatus do not include stamps for imparting patterns onto a surface.

Furthermore, the removable weights disclosed in the Wynings reference are entirely different from those of the present invention. The weights of the present invention are not stacked horizontally along the length of the roller (and forward of its axis). Wynings fails to teach or suggest a handle connecting to a cross bar or receiver position, with the cross-bar or receiver portion including weight retainers or holders. Further, the weight bar of Wynings does not extend from a cross bar or a receiver portion. On the contrary, the present invention includes two retainers

or holders, such as vertical posts, at *oppositely disposed ends* of the roller, for (vertically) *stacking* two *separate* sets of weights. Importantly, these separate, adjustable sets of weights of the present invention allow the roller to be adjustably weighted *at its ends*. This allows the user to apply the weights at the ends of the roller. The Wynings device includes *one* horizontal weight bar for mounting weights along the length of the roller, forming a continuous set of weights. Thus, the Wynings device includes a single horizontal weight bar and not separate retainers positioned at opposite ends of the roller to hold weights at opposite ends of the roller. Wynings simply fails to teach or suggest separate sets of weights. The Wynings device is presumably weighted in this manner because of the nature of the different soil surfaces on which it is used. Analogously, the present invention is quite deliberately weighted at its ends in order to accommodate the various degrees of tightness encountered when working *wet* concrete. Thus, the two weighting mechanisms are hardly interchangeable. Wynings fails to teach or suggest isolating weights at its oppositely disposed ends, and for at least these reasons, reconsideration of the rejection is respectfully requested.

Finally, with regard to the Pallard apparatus, the handle and the receiver portion of the apparatus form a *one-piece construction*, and the handle of the device cannot move or pivot in relation to the receiver portion. The Pallard reference in no way contemplates a rotatable, pivotal handle. Pallard also does not teach the weighting of the device. Thus, the Pallard reference and the Wynings reference, singly or combined, fail to teach all the elements of the present invention, as defined by the claims.

Furthermore, there is no suggestion or motivation to combine the Pallard patent with the Wynings patent, which involves rolling earth or soil flat. Wynings fails to teach or suggest adding weights to a cross bar or a receiver position analogous to any structure in Pallard or the present invention. The weight bar 38 and the frame 16 are wholly different than the cross bar or receiver

position of the present invention. Concrete stamping and soil rolling or flattening are two distinct arts: the Wynings patent does not so much as mention concrete let alone discuss any art relevant to stamping concrete. Soil rolling or flattening is not done for the purpose of imparting a texture or a pattern in the soil.

In a related vein, because imparting patterns into concrete and soil rolling are so distinct from each other, there is not a reasonable expectation of success in combining these two references. There is no reasonable expectation that the combination of the *lateral* system of weights disclosed in the Wynings patent, with its application in soil rolling, and the device of the Pallard patent, with its application in the embossing of the surface of concrete, would be successful in stamping patterns into *wet concrete of varying tightness*.

Thus, for the reasons stated above, taken collectively, the Pallard and Wynings references do not disclose or suggest every element of the above-listed claims.

Respectfully submitted,

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